



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

APR 14 2014

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

David Kozin
Owner
Imperial Zinc Corporation
1031 East 103rd Street
Chicago, Illinois 60628

Re: Notice and Finding of Violation
Imperial Zinc Corporation
Chicago, Illinois

Dear Mr. Kozin:

The U.S. Environmental Protection Agency is issuing the enclosed Notice and Finding of Violation (NOV/FOV) to Imperial Zinc Corporation (you) under Section 113(a) of the Clean Air Act, 42 U.S.C. § 7413(a). We find that you are violating the Illinois State Implementation Plan and the National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources (Subpart TTTTTT) at your Chicago, Illinois facility.

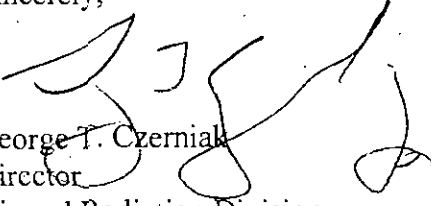
Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the NOV/FOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage you to submit to us information responsive to the NOV/FOV prior to the conference date.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Alexandra Letuchy. You may call her at (312) 886-6035 to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,



George T. Czerniak
Director
Air and Radiation Division

cc: Eric Jones
Compliance Unit Manager
Bureau of Air
Illinois Environmental Protection Agency

IN THE MATTER OF:

NOTICE OF VIOLATION and FINDING OF VIOLATION

EPA-5-14-IL-09

The U.S. Environmental Protection Agency is issuing this Notice of Violation and Finding of Violation (NOV/FOV) to Imperial Zinc Corporation (Imperial Zinc) under Section 113(a)(1) and (a)(3) of the Clean Air Act (the Act), 42 U.S.C. § 7413(a)(1) and (a)(3). EPA finds that Imperial Zinc is violating the Illinois State Implementation Plan (SIP) and the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Secondary Nonferrous Metals Processing Area Sources (Subpart TTTTTT) at the facility located at 1031 East 103rd Street, Chicago, Illinois 60628 (Facility). The relevant statutory and regulatory background, factual background, notice and finding of violations, and environmental impact of these violations are set forth in detail below.

National Emission Standards for Hazardous Air Pollutants

1. Section 112 of the Act, 42 U.S.C. § 7412, requires the EPA to promulgate a list of all categories and subcategories of new and existing “major sources” and “area sources” of hazardous air pollutants (HAP), and establish emissions standards for the categories and subcategories. These emission standards are known as NESHAPs. The EPA codified these standards at 40 C.F.R. Parts 61 and 63.
2. 40 C.F.R. Part 63, Subpart A, contains the general provisions for the NESHAPs.
3. “Major source” is defined as “any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants.” 42 U.S.C. § 7412(a)(1).
4. “Area source” is defined as “any stationary source of hazardous air pollutants that is not a

- major source.” 42 U.S.C. § 7412(a)(2).
5. “Stationary source” is defined as “any building, structure, facility, or installation, which emits or may emit any air pollutant.” 42 U.S.C. § 7411(a)(3).
 6. “Hazardous air pollutant” is defined as “any air pollutant listed in or pursuant to” Section 112(b) of the Act. 42 U.S.C. § 7412(a)(6).
 7. Section 112(i)(3) of the Act, 42 U.S.C. § 7412(i)(3), prohibits any person subject to a NESHAP from operating a source in violation of a NESHAP after its effective date. *See also* 40 C.F.R. §§ 61.05 and 63.4.
 8. 40 C.F.R. § 63.6(e)(1)(i) states in part, “at all times, including periods of startup, shutdown, and malfunction, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions.”
 9. Pursuant to Section 112 of the Act, the EPA promulgated the NESHAP for Secondary Nonferrous Metals Processing Area Sources 40 C.F.R. Part 63, Subpart TTTTTT, 40 C.F.R. §§ 63.11462 - 63.11474, on December 26, 2007. 72 Fed. Reg. 73207.

The NESHAP for Secondary Nonferrous Metal Processing Area Sources

10. The NESHAP at 40 C.F.R. Part 63; Subpart TTTTTT, applies to the owner or operator of a secondary nonferrous metals processing facility that is an area source of HAP emissions. 40 C.F.R. § 63.11462(a).
11. 40 C.F.R. § 63.11463(a) provides that this subpart applies to any existing or new affected source located at a secondary nonferrous metals processing facility.
12. 40 C.F.R. § 63.11463(b) provides that the affected source includes all furnace melting operations located at any secondary nonferrous metals processing facilities.
13. 40 C.F.R. § 63.11472 defines “furnace melting operation” as the collection of processes used to charge post-consumer nonferrous scrap material to a furnace, melt the material, and transfer the molten material to a forming medium.
14. 40 C.F.R. § 63.11472 defines “secondary nonferrous metals processing facility” as a brass and bronze ingot making, secondary magnesium processing, or secondary zinc processing plant that uses furnace melting operations to melt post-consumer nonferrous metal scrap to make products including bars, ingots, blocks, or metal powders.
15. 40 C.F.R. § 63.11463(d) provides that an affected source is new if the owner/operator commenced construction or reconstruction of the affected source after September 20, 2007.

16. 40 C.F.R. § 63.11464(b)(2) provides that the compliance date for a new affected source started after December 26, 2007, is upon initial startup.
17. 40 C.F.R. § 63.11465(b) states that the owner/operator must route the emissions from each new affected source through a fabric filter or baghouse that achieves a particulate matter (PM) control efficiency of at least 99.5 percent or an outlet PM concentration limit of 0.023 g/dscm (0.010 gr/dscf).
18. 40 C.F.R. § 63.11466(a) states that the owner/operator of an existing or new affected source must conduct a performance test for each affected source within 180 days of the compliance date and report the results in a Notification of Compliance Status.
19. 40 C.F.R. § 63.11467(a) provides that the owner/operator must demonstrate initial compliance with the applicable standards in § 63.11465 by submitting a Notification of Compliance Status.
20. 40 C.F.R. § 63.11467(b) requires that the owner/operator conduct an initial baghouse inspection specified in 40 C.F.R. § 63.11467(c) and include the results of the inspection in the Notification of Compliance Status.
21. 40 C.F.R. § 63.11469(a) states that the owner/operator must submit an Initial Notification required by § 63.9(b)(2) no later than 120 days after the applicable compliance date specified in § 63.11464. The Initial Notification must include the information specified in § 63.9(b)(2)(i) through (iv).
22. 40 C.F.R. § 63.11469(c) states that if the owner/operator is required to conduct a performance test under § 63.11466, the owner/operator must submit the Notification of Compliance Status, including the performance test results, before the close of business on the 60th day following the completion of the performance test.
23. 40 C.F.R. § 63.11468(c) states that for each new affected source, the owner/operator must install, operate, and maintain a bag leak detection system.

Illinois State Implementation Plan

24. On May 31, 1972, EPA approved Illinois Pollution Control Board (IPCB) Rule 103(a) and 103(b) as part of the federally enforceable SIP of the State of Illinois. 37 Fed. Reg. 10,862. IPCB Rule 103(a) has been recodified at 35 Ill. Admin. Code § 201.142. IPCB Rule 103(b) has been recodified at 35 Ill. Admin. Code § 201.143.
25. The Illinois SIP at Rule 103(a)(1) [35 Ill. Admin. Code § 201.142] provides that no person shall cause or allow the construction of any new emission source or any new air pollution control equipment, or cause or allow the modification of any existing emission source of air pollution equipment, without first obtaining a construction permit from the Illinois Environmental Protection Agency (IEPA).
26. The Illinois SIP at Rule 103(b)(1) [35 Ill. Admin. Code § 201.143] provides that no person shall cause or allow the operation of any emission source or new air pollution

control equipment, for which a construction permit is required, without first obtaining an operating permit from IEPA.

27. "Construction," is defined as "commencement of on-site fabrication, erection or installation of an emission source or of air pollution control equipment." 35 Ill. Admin Code § 201.102.

Relevant Factual Background

28. Imperial Zinc owns and operates the Facility located at 1031 East 103rd Street, Chicago, Illinois 60628.
29. Imperial Zinc owns and operates a secondary zinc processing plant that uses furnace melting operations to melt post-consumer nonferrous metal scrap to make ingots and blocks.
30. Imperial Zinc operates four furnaces (Furnaces #1 - 4) and two rotary furnaces (Furnaces #1 - 2) that process secondary zinc at the Facility.
31. Imperial Zinc also uses furnace melting operations to melt primary zinc to make ingots and blocks at the Facility.
32. Imperial Zinc refers to the furnaces that process primary zinc as Furnace A – D, "The Big One," "The Small Furnace," "The Large Furnace," Furnace E – H, and two zinc crucibles.
33. Emissions from Furnaces #1 – 4, Rotary Furnaces #1 – 2, Furnace A – D, and "The Big One" are vented to a baghouse.
34. Furnaces #1 – 4, Rotary Furnaces # 1 – 2, Furnaces A – D, "The Big One," and the associated baghouse were constructed in 2010.
35. Furnaces #1 – 4 and Rotary Furnace #1 – 2 are new affected sources, as defined by the NESHAP.
36. On March 11, 2014, EPA conducted an inspection at the Facility.
37. During the inspection, EPA inspectors observed, among other things, that the manometer measuring differential pressure at the baghouse was not operating.
38. On March 11, 2014 and April 2, 2014, the EPA sent emails to the Facility requesting documents as a follow up to the inspection.
39. Imperial Zinc provided responses to EPA's emails on March 27, 2014 and on April 9, 2014.

40. Based on Imperial Zinc's responses to EPA's emails, Imperial Zinc replaced bags in the baghouse approximately on a weekly basis between February 25, 2013 and March 17, 2014.
41. Based on Imperial Zinc's responses to EPA's emails, the company has not conducted a performance test on the baghouse since it was installed in 2010.
42. Imperial Zinc provided an Initial Notification pursuant to 40 C.F.R. Part 63, Subpart TTTT dated April 23, 2008 to the IEPA. The Initial Notification stated that the Facility was subject to the NESHAP on the date the rule became effective, but that the Facility had not been in operation since the building and equipment at the Facility sustained substantial damage as a result of a fire on March 17, 2008. Imperial Zinc stated that the Agency would be notified if the company decided to reconstruct and/or replace the Facility's structure and equipment.
43. Based on Imperial Zinc's responses to EPA's emails, Imperial Zinc has not submitted a Notification of Compliance Status pursuant to 40 C.F.R. § 63.11467(a).
44. Based on Imperial Zinc's responses to EPA's emails, Imperial Zinc has not installed a bag leak detection system on the baghouse.
45. Based on Imperial Zinc's responses to EPA's emails, Imperial Zinc did not submit an application for a construction permit to IEPA for the furnaces and baghouse that were installed at the Facility in 2010.
46. IEPA issued a lifetime operating permit to Imperial Zinc on September 24, 2001. Based on Imperial Zinc's responses to EPA's emails, Imperial Zinc did not obtain an operating permit from IEPA for the furnaces and baghouse that were installed at the Facility in 2010.

Notice and Finding of Violations

Violations of the General Provisions and NESHAP for Secondary Nonferrous Metal Processing Area Sources

47. By failing to conduct a performance test for each affected source, Imperial Zinc violated the testing requirements at 40 C.F.R. § 63.11466(a).
48. By failing to submit a Notification of Compliance Status demonstrating compliance with the PM emission limit at 40 C.F.R. § 63.11465(b), Imperial Zinc violated initial compliance demonstration requirements at 40 C.F.R. § 63.11467(a).
49. By failing to install, operate, and maintain a bag leak detection system on the baghouse, Imperial Zinc violated the monitoring requirements at 40 C.F.R. § 63.11468(c).
50. By failing to operate the manometer measuring differential pressure at the baghouse, Imperial Zinc violated the requirement to operate and maintain any affected source,

including associated air pollution control equipment and monitoring equipment, in a manner consistent with good air pollution control practices at 40 C.F.R. § 63.6(e)(1)(i).

51. Replacing bags in the baghouse on an approximately weekly basis is not consistent with and a violation of the requirement to operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with good air pollution control practices at 40 C.F.R. § 63.6(e)(1)(i).

Violations of the Illinois SIP

52. By failing to obtain a construction permit for the new emission sources and new air pollution control equipment installed in 2010, Imperial Zinc violated the permitting requirements at 35 Ill. Admin. Code § 201.142.
53. By failing to obtain an operating permit that includes the operation of the new emission sources and new air pollution control equipment installed in 2010, Imperial Zinc violated the permitting requirements 35 Ill. Admin. Code § 201.143.

Environmental Impact of Violations

54. Imperial Zinc's violations of the above-referenced NESHAP likely resulted in increased emissions of HAPs, including, but not limited to, lead, cadmium, hexane, and formaldehyde. Violation of the above-referenced NESHAP may cause serious health effects. In children, low levels of lead in the blood can result in permanent damage to the brain and nervous system, leading to behavior and learning problems, lower IQ, hearing problems, slowed growth, and anemia. In adults, lead has nervous system effects, cardiovascular effects, and causes decreased kidney function. The acute affect on cadmium inhalation causes bronchial and pulmonary irritation. Chronic inhalation can cause kidney disease, bronchiolitis, and emphysema. HAP emissions may also cause harmful environmental and ecological effects.

4/14/14

Date



George T. Czerniak
Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent a Notice and Finding of Violation, No. EPA-5-14-IL-09, by Certified Mail, Return Receipt Requested, to:

David Kozin
Owner
Imperial Zinc Corporation
1031 East 103rd Street
Chicago, Illinois 60628

I also certify that I sent copies of the Notice of Violation and Finding of Violation by first-class mail to:

Eric Jones, Manager
Compliance Unit
Bureau of Air
Illinois Environmental Protection Agency
P.O. Box 19506
Springfield, Illinois 62794

On the 14 day of April 2014.

Loretta Shaffer

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7676 2625